

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-005964

03/30/2012

HONORABLE THOMAS L. LECLAIRE

CLERK OF THE COURT

L. Berger

Deputy

IN RE THE MATTER OF
PAMELA JEAN MARTINEZ

PAMELA JEAN MARTINEZ
2313 W VINEYARD RD
TEMPE AZ 85282

AND

SEAN ANTHONY MARTINEZ SR.

SEAN ANTHONY MARTINEZ SR.
22744 E CARLA VISTA DR
MESA AZ 85212

HOLLY JUDGE
3303 E BASELINE RD
BLDG 6, STE 113
GILBERT AZ 85234

UNDER ADVISEMENT RULING

This matter comes before the Court on Petitioner's Motion for Post-Decree Temporary Order Without Notice for Modification of Child Custody and Respondent's Response thereto. The Court issued an Order on January 31, 2012 confirming parenting time. At the instant hearing, the parties agreed to joint custody of the minor child. Accordingly,

IT IS ORDERED as follows:

- A. The parties are awarded joint legal custody of the minor child.
- B. Each parent is entitled to full and unrestricted access to all medical, dental, prescription and health related records of the child and may secure information from and consult with all health care professionals involved with the minor child.

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- Each party shall keep the other parent informed of the names, addresses and telephone numbers of all health care providers of the child.
- C. Each parent is entitled to full and unrestricted access to all school records, teachers and school officials involved in the child's schooling.
 - D. In the event of any emergency or urgent circumstance involving the child, the other parent shall be notified as soon as is reasonably possible.
 - E. Each parent shall have the right to attend and participate in school, extra-curricular, conference, organized activity or other similar event in which parents are routinely invited or permitted to attend.
 - F. Each parent shall keep the other apprised of his/her home address, home telephone number, employer and address, work telephone number and, if applicable, cellular telephone number and e-mail address.
 - G. It is in the furtherance of the child's best interests for the parents to confer and for the views of each parent to be considered. There shall be communication between the parents to address day-to-day and more significant issues. They shall develop their communication by utilizing e-mail as their primary method for communication. This shall afford a method that ensures both accountability and verifiability. Both parties shall maintain and regularly review their e-mail accounts. They shall each respond in a timely fashion, even if such response is merely to acknowledge the receipt of information. Each should print copies of all e-mails received and sent so that if an issue arises in the future that has been addressed through e-mail, each party shall have proof as to what was communicated.
 - H. It is anticipated that parental decisions shall be required for major issues in raising the child and in meeting his on-going needs. If/when they arise, the parents shall address the issues. Each shall give good faith consideration to the views of the other. If the decision involves medical or schooling issues, the parties may further elect to seek input from treating physicians or educators. Both parents shall be provided with such input. If the parents cannot agree after making a good faith effort to come to an agreed upon decision, the parents are required to go to mediation through Conciliation Services or a private mediator before petitioning with the Courts.

The information provided to the Court at the hearing indicates that the parties have switched custody of Ivan on at least two (2) occasions. Mother had Ivan most of the time with Father having some limited parenting time. As a result of problems that Ivan was having at Mother's house, the parties agreed to switch Ivan's physical custody to Father. This arrangement

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persisted for some time until Father allowed his girlfriend to reside in what was the parties' marital residence. Apparently, this move upset Ivan and he indicated he wanted to leave the residence and resume living with Mother. The Court notes that Ivan appears not to hold a grudge with Father, but does not like Father's girlfriend. Interestingly, Ivan held this same position when Mother first started her relationship with her current fiancé. At that time, Ivan indicated that he did not like the fiancé, although he has come to like him now. It is unclear to the Court whether Ivan has changed his position.

As a result of the turmoil occurring in Ivan's life, his decline in school grades, and his actions in school in which he has committed offenses which have resulted in a temporary suspension from school, the parties once again switched physical custody. The Court also instructed the parties to begin Ivan in counseling. The Court received information subsequent to that Order that, in fact, Ivan is seeing Dr. David Baab and had sessions on February 13, 2012, February 21, 2012, February 23, 2012, February 28, 2012, February 29, 2012 and March 14, 2012. The Court has received no report from Dr. Baab or any update as to the effectiveness of the counseling. Therefore, the Court cannot determine presently whether the counseling has resolved the issues that Ivan had with his Father.

Therefore, the Court believes it is appropriate to affirm the parenting time Orders which were initially issued on January 31, 2012 with the following exceptions:

- In addition to parenting time every other weekend, Father shall be entitled to parenting time on Tuesdays and Thursdays from after school until 7:00 p.m. Father shall deliver Ivan to his Mother's residence following the weekday visits.

IT IS ORDERED that Mother's request that Ivan be dis-enrolled from his current school and re-enrolled in a school near her home is **DENIED**. It is not in Ivan's best interests to move schools at this time, particularly as he is going through some issues with respect to the break-up of the relation between his parents.

IT IS FURTHER ORDERED that Court Appointed Advisor, Holly Judge, shall obtain an update from Ivan's current counselor, Dr. David Baab, and advise the Court on the progress, or lack of progress, Ivan has made in repairing the relationship between Father and Ivan. This report shall be filed with the Court **within forty-five (45) days** of the filing date of this Order.

IT IS FURTHER ORDERED that upon receipt of the report regarding the current counseling, the Court may, on its own motion, re-exam the issue of parenting time for Father.

As a result of this requirement,

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IT IS FURTHER ORDERED that Mother's request for child support is **DENIED** without prejudice until the report from Dr. Baab is received and the Court has an opportunity to determine if the parenting time shall remain in the manner in which it currently is Ordered.

IT IS FURTHER ORDERED signing this minute entry as a formal written Order of the Court, pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/S/ JUDGE THOMAS L. LeCLAIRE

THOMAS L. LeCLAIRE
JUDGE OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.